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VIA ECF

United States District Court
Southern District of New York
Attn: Hon. Victor Marrero, U.S.D.J.
500 Pearl Street, Courtroom 15B
New York, NY 10007-1312

Re: Rosenfield & Co., PLLC v. Trachtenberg, Rodes & Friedberg LLP, et al.
S.D.N.Y. Case No.: 1:21-cv-3858 (VM) (KHP)

Dear Judge Marrero:

This firm represents all of the Defendants in the above-referenced case with the exception of Trachtenberg, Rodes & Friedberg LLP (hereinafter the “Star Defendants”). Today, the Star Defendants filed Amended Cross-Claims and Third-Party Complaint under Rule 15(a)(1)(B), which we respectfully submit renders TRF Defendants’ motion to dismiss [ECF Doc. Nos. 94-96] moot. See Fredericks v. City of NY, 2012 WL 3667448, 2012 US Dist. LEXIS 121708 (S.D.N.Y. Aug. 23, 2012) (denying motion to dismiss as moot with leave to renew in light of amended pleading).

In compliance with this Court’s Individual Practice Rules, following Trachtenberg, Rodes & Friedberg LLP notifying Star Defendants about purported deficiencies in Star Defendants’ Cross-Claims and Third-Party Claims, Star Defendants emailed this Court and all parties a proposed amended pleading on December 27, 2021. These proposed amendments contained, *inter alia*, an additional cause of action.

On July 15, 2022, Defendant Trachtenberg, Rodes & Friedberg LLP and Third-Party Defendants Barry Friedberg and Leonard Rodes (the “TRF Defendants”) filed a motion to dismiss (hereinafter the “Motion”) Star Defendants’ Cross-Claims and Third-Party Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (hereinafter referred to as “Rules” or “Rule”). Upon further review, TRF Defendants’ motion is not based on the proposed amendments Star Defendants sent previously and instead attacks the original pleading. In any event, Star Defendants’ Amended Cross-Claims and Third-Party Complaint renders TRF Defendants’ motion to dismiss moot.¹

¹ The Amended Cross-Claims and Third-Party Complaint filed by the Star Defendants today does not mirror the proposed amendments that Star Defendants previously emailed on December 27, 2021. As such, Star Defendants emailed a red-lined version of the Amended Cross-Claims and Third-Party Complaint to TRF Defendants.

Accordingly, absent direction from this Court to the contrary, the Star Defendants do not plan on filing opposition papers to the motion to dismiss.

The Star Defendants thank this honorable Court for its time and attention to this case.


Respectfully submitted,

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/s

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via ECF (all counsel of record).

The TRF Defendants are _____ directed to respond	
by August 11, 2022.	by letter not to exceed three
_____ pages, to the matter set forth above by	
Star Defendants, requesting the Court deny	
the motion to dismiss as moot.	
SO ORDERED.	
8/4/2022	
DATE	VICTOR MARRERO, U.S.D.J.